

### **REMARKS**

This Response is in reply to the final Office Action mailed on August 9, 2005. Claims 1-3, 5-13, and 15 are pending. Claim 1 has been amended herein. Claim 15 has been newly added. Claims 4 and 14 have been canceled. The Applicant appreciates the indication that claim 13 contains allowable subject matter. No new matter has been added. Entry and consideration of the amendments and following remarks is respectfully requested.

### **Amendments to Claims**

Claim 1 has been amended to delete “a combination of movements” and to add “mechanical means for causing *both a vibrating motion of said curved portion and a movement of said distal end from one position to another position while said curved portion remains curved.*” Support for the amendments to the claim is described in the specification on page 6, line 16 - page 7, line 12 and page 8, lines 14-18. The “movement of said distal end from one position to another position while said curved portion remains curved” is clearly shown in Fig. 1. No new matter has been added.

Newly added claim 15 adds the element of “*a means for selectively employing only said vibrating motion or only said movement of said distal end or a combination of both.*” Support for this claim can be found on page 8, lines 5-21 of the specification. No new matter has been added.

**Rejection under 35 USC §112 and Objection under 35 USC §132(a)**

In view of the amendment to claim 1 deleting the phrase “a combination of movements,” the Examiner is respectfully requested to withdraw the rejection of claims 1-14 under 35 USC §112 and the objection to the specification under 35 USC §132(a).

**Claim Rejections - 35 USC §102(b)**

Claims 1, 4, 6-12 and 14 are rejected under 35 U.S.C. §102(b) as being anticipated by Bakunin et al. (U.S. 3,504,665). Claims 1, 2, 4-8 and 14 are rejected under 35 U.S.C. §102(b) as being anticipated by Bates et al. (U.S. 2,957,474). These rejections are respectfully traversed.

Independent claim 1 has been amended to delete “a combination of movements” and to add “mechanical means for causing *both a vibrating motion of said curved portion and a movement of said distal end from one position to another position while said curved portion remains curved.*” It is Applicant’s contention that claim 1 of the present invention is not anticipated, nor is it made obvious, by the cited references because the features are not present nor suggested in the references. By reason of their dependency on independent claim 1, the Applicant asserts that claims 2-3 and 5-13 are also patentable. Claims 4 and 14 have been canceled.

In the present invention, the sexual aid device comprises a curved portion that is easily inserted into a vagina or an anus. A substantially straight portion extends from a proximal end of the curved portion thereby forming an approximate J shape and there is a mechanical means for causing *both* a vibrating motion of the curved portion and a movement of the distal end from one

position to another position *while the curved portion remains curved*. The devices in the cited references do not provide both the vibrating motion of the curved portion and the distal end and a movement of the distal end from one position to another position while the curved portion remains curved.

Bakunin does not teach a sexual aid device having mechanical means for causing *both* a vibrating motion of the curved portion *and* a movement of the distal end from one position to another position as recited in amended claim 1. The device of Bakunin *only* oscillates.

The Bates device is for stimulating the blood circulation of the male gland. Functional limitations must be considered and evaluated for what it conveys to a person of ordinary skill in the pertinent art in the context in which it is used and it is not clear from the Office Action why the device would be inserted into a vagina or an anus as a sexual aid device.

However, assuming, *arguendo*, that Bates could be used as a sexual aid device, Bates still does not teach a sexual aid device for insertion into a vagina or an anus having a mechanical means for causing both a vibrating motion of the curved portion and a movement of the distal end from one position to another position *while the curved portion remains curved*, as recited in amended claim 1. The extending motion of Bates in Figure 1 discussed by the Examiner in the outstanding Office Action does not occur while the curved portion remains curved. As can be clearly seen from Figure 1 of the Bates reference, the curved portion is *straight* when extended.

Accordingly, neither Bakunin nor Bates anticipate the present invention as recited in independent amended claim 1. As stated above, by reason of their dependency on independent claim

1, the Applicant asserts that claims 2-3, 5-13, and 15 are also patentable over Bakunin and Bates. Claims 4 and 14 are canceled. Therefore, it is respectfully requested that the anticipation rejections be withdrawn.

**Claim Rejections - 35 USC §103(a)**

Claim 3 is rejected under 35 U.S.C. §103(a) as being unpatentable Bakunin et al. (U.S. 3,504,665) as applied to claim 1 above, and further in view of Tsai (U.S. 6,190,307). This rejection is respectfully traversed.

Amended claim 1 is patentable for the reasons stated above. Neither Bakunin nor Tsai teach or suggest a mechanical means for causing *both* a vibrating motion of the curved portion and a movement of the distal end from one position to another position while the curved portion remains curved, as recited in amended claim 1. By reason of its dependency on independent claim 1, the Applicant asserts that claim 3 is also patentable over the cited references. Accordingly, it is therefore respectfully requested that the rejection under 35 U.S.C. §103(a) be withdrawn.

**Conclusion**


In view of the amendment to claim 1 made herein and the arguments presented above, it is submitted that the Examiner's rejections have been overcome and should be withdrawn. The application should now be in condition for allowance.

Should any changes to the claims and/or specification be deemed necessary to place the application in condition for allowance, the Examiner is respectfully requested to contact the undersigned to discuss the same.

This Response to Office Action is being filed with a Petition for a one-month extension of time. In the event that any other extensions and/or fees are required for the entry of this Response, the Patent and Trademark Office is specifically authorized to charge such fee to Deposit Account No. 50-0518 in the name of Steinberg & Raskin, P.C. An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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